

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:18-00151

MUHAMMED SAMER NASHER-
ALNEAM, M.D.

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion to continue the pretrial deadlines and the trial of this matter. (ECF No. 47). The United States does not object to the requested continuance.

In his memorandum, counsel for defendant contends that defense counsel needs additional time to investigate and prepare for trial based upon the volume of, as well as the nature of, the discovery produced or to be produced in this case. Counsel for defendant further contends that more time is needed to go over the discovery materials with defendant, as well as to consult with and obtain expert witnesses on defendant's behalf. Defense counsel further indicates that they have a number of trials scheduled to begin in the near future which have interfered with efforts to get ready for this trial. According to defendant's counsel, "a trial after the Thanksgiving holiday is necessary." ECF No. 47 at p.2. Counsel for defendant has also informed the court that they believe the trial is expected to last between two to three weeks and that they are not available until on or after December 10, 2018.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that

the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** the defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and found that the nature of the prosecution, makes it unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by the Speedy Trial Act. The court further finds that failure to grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

1. Trial of this action is continued until January 7, 2019, at 9:30 a.m., in Charleston;
2. Jury instructions and proposed voir dire are to be filed by January 2, 2019;
3. All pretrial motions are to be filed by December 11, 2018;
4. A pretrial motions hearing is scheduled for December 18, 2018, at 1:00 p.m., in Charleston;
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of defendant's motion until the trial is excluded for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States

Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 3rd day of October, 2018.

ENTER:

David A. Faber

David A. Faber
Senior United States District Judge